

RECEIVED

MAY 21 2008 MB

MICHAEL W. DOEBINS
CLERK, U.S. DISTRICT COURTIN THE
SUPREME COURT OF THE UNITED STATESGerald Jones
Plaintiff

v.

UNITED STATES COURT OF
APPEALS, PHILIP G. REINHARD,
DefendantsFrom the UNITED STATES COURT OF
APPEAL, SEVENTH CIRCUITNO. 04-162108CV 2970
JUDGE KENNELLY
MAGISTRATE JUDGE MASONMEMORANDUM OF LAW

NOW Comes Plaintiff, Gerald Jones, Pro se Respectfully move
this COURT in good Faith, File this memorandum of LAW
IN SUPPORT OF THE HIS Petition of mandamus, and state
the Following:

THE QUALIFICATION OF the LAW, THE EQUAL PROTECTION OF the LAW
Violations occurs ONLY when Different legal STANDARDS ARE
ARBITRARILY Applied To similarly situated litigents (Plaintiff)
that's suppose To be receiving the same legal STANDARDS By
LAW AND RIGHTS see Del Vecchio V. Ill. Dep't. OF CORRECTIONS
31 F.3d 1363 (7th Cir 1994) (quoting citing Debbert V. Florida
432 U.S. 282, 301, 97 S.Ct. 2290, 2302, 53 L.Ed.2d 344.

DEFENDANTS DUTIES REQUIRED BY LAW

- 1) as ANNOUNCED By the U.S. SUPREME COURT AND RECOGNIZED By the SEVENTH CIRCUIT COURT OF APPEALS, thus ALL DEFENDANTS HAVE a DUTY To as ALLEGED "the PRISON LITIGATION REFORM ACT (P.L.R.A.) must be APPLIED as WRITTEN." see JOHNSON V. DALEY 339 F.3d 582 (7th Cir 2003)
- 2) AS ANNOUNCED By the U.S. SUPREME COURTS "a pro se Complaint may NOT be DISMISSED as FRIVOLOUS simply BECAUSE COURT FINDS PLAINTIFF'S ALLEGATIONS UNLIKELY — AND COMPLAINTS MAY NOT BE DISMISSED FOR FAILURE To STATE a claim UNLESS NO FACTS COULD BE PROVEN THAT WOULD ENTITLE HIM to RELIEF, see DENTON V. HERNANDEZ, 504 U.S. 25, 112 S.Ct. 1728 118 L.Ed.2d 340 (1992) with HAINES V. KERNER 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972) AND
- 3) the Acts To be PerFORM By Statutes ARE ministerial Duties NOT Discretion HOLDING "the COURT OBLIGATION is to Apply the Statute as Congress wrote it. see, STATED IN, HUBBARD V. U.S. 514 U.S. 695, 115 S.Ct. 1754, 131 L.Ed.2d 779 (1995) see ALSO Ex parte VIRGINIA. 100 U.S. 339, 10 Otto 339, 1879 WL 16561 (U.S. 11A), 25 L.Ed 676. (1979)
- 4) Before a sua sponte Dismissal, the COURT HAVE a ministerial Duty To serving summons AND a CHANCE For ALL PARTIES To RESPONSE To the Complaint AND PLAINTIFF a opportunity To RESPONSE upon Notice Before a sua sponte Dismissal see. Rickett V. MIDWEST NAT'L BANK 874 F.2d 1177 1184 (7th Cir 1989)

DEFENDANTS DUTIES TO VACATE
AND REVERSE THEIR JUDGMENT

ONCE UPON NOTICE THAT DEFENDANTS ACTS AND ORDERS
WHERE IS ERRORNEOUSLY AND UNAUTHORIZED, IMPROPER, A
ABUSE OF DISCRETION, ARBITRARILY AND DEPRIVING PLAINTIFF
HIS CONSTITUTIONAL RIGHTS OF THE DUE PROCESS PROTECTIONS OF
THE 1 AND 14 AMEND. RIGHTS WITHOUT DUE PROCESS OF THE LAWS,
HAVE A MINISTERIAL DUTY TO CORRECT, VACATE THOSE ACTS AND
ORDERS THAT ARE HELD VIOL BY LAW OR FORBIDDEN BY LAW
SEE EX PARTE VIRGINIA 100 U.S. 339, 10 OTT 339, 1879 WL 16561
(U.S. VA.) 25 L.ED 676 (1979) LOPEZ V. VANDERWATER, 620 F.2d 1229,
1233 (7th Cir. 1980) MITCHUM V. FOSTER 407 U.S. 225 92 S.Ct.
2151, 32 L.ED 205 (1972) EX PARTE ABRAM C. WISNER 203 U.S. 449
27 S.Ct. 150, 51 L.ED 264 (1906)

WHEN A COURT MISCONSTRUED OR MISUSE OR MISAPPLIED OR ERRORNEOUSLY
APPLIED A STATUTE, THE COURT SHALL REVERSE THAT ERROR AS IT IS
REQUIRED TO ADMINISTER JUSTICE TO ALL CITIZENS OF THE UNITED
STATES. THAT A COURT SHALL CORRECT THEIR OWN ERRORS A FAILURE
REQUIRES SUPERVISORY AUTHORITY THAT THE LOWER COURTS ARE
BOUND AND IS TO OBEY OUT THE U.S. SUPREME HOLDINGS NOT
CHANGE THEM OR DISREGARD THEM. SEE, STATED IN, HUBBARD V.
U.S. 514 U.S. 695, 115 S.Ct. 1754 (1995)

A MANDAMUS is Properly issued To require a Judge
To Hear legal evidence Pulliam v. Allen 466 U.S. 522, 104 S.Ct.
1970, 80 L.Ed 565 (1984) (citing Queen v. Marsham [1892] 1 Q.B.
371 (1891))

a MANDAMUS is Properly issued To Remedy where Federal
Courts Refuse To Remand Reverse or Vacate Judgment
where they lack Jurisdiction when personally acting
in their personal interest ALTRA VIRES see ex parte
Abram C. Wisner 203 U.S. 449, 27 S.Ct. 150 (1906)

Defendants Have a Duty To allow Plaintiff To Prove His
Claims under the right To be Heard and give evidence that
Defendants Refuse To Do.

Date: 5-11-08

Respectfully Submitted,

sign. Gerald Jones

Gerald Jones

B.13486

P.O. Box 99

PONTIAC IL 61764

INTRODUCING EXHIBITS

- 1) EXHIBIT MENT is the motion and notice 6 page Request DEFENDANTS To VACATE Judgment REQUIRED By LAW 9/50 95 a DEMAND of a MANDAMUS would BE FILED
- 2) APPENDIX A. is the 3 page 7th CIR. COURT OF APPEALS Judgment PLAINTIFF seeks and DEFENDANTS Duty To VACATE
- 3) APPENDIX B. is the 2 page Northern District COURT ORDER Judgment PLAINTIFF seeks and DEFENDANTS Duty To VACATE
- 4) APPENDIX C. is the one Page 7th CIR. COURT OF APPEALS Decision To NOT REHEAR their Decision Judgment OF the Appeal in en banc.
- 5) EXHIBIT DOC. is the 7 Page Statement of Proceeding Facts seeking To HAVE Judgment VACATED
- 6) EXHIBIT TAXI is one of the INJURIES of Being Denied Access To the COURTS without Due Process of the LAWS CAUSED By the UNAUTHORIZED strikes
- 7) EXHIBIT T.C. is the Two Page Facts DEFENDANTS Refuse To carry out their ministerial Duties VACATE Judgment.

Appeal No 04-1621

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

Gerald J. Jones
Plaintiff

NO. 04 C 50058

vs.

Jerry Sternes et al
Defendants

MOTION TO RECALL MANDATE
AND NOTICE TO ALL ASSIGNED JUDGES

NOW COMES PLAINTIFF Gerald Jones Pro Se move
this COURT To Recall the mandate and COURT ORDER
ENTERED, AND PLACE ON NOTICE OF THE INVALID ORDER AND
A MANDAMUS To BE FILED, For the Following REASONS
So stated:

EXHIBIT ment

NO. 04-1621

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

Gerald Jones
Plaintiff-Appellant

vs.

Jerry L. Stearns, et al.
Defendants - Appellees.

Appeal From Northern District
of Illinois, United States Court
No. 04 C 50058

Judge Philip G. Reinhard.

MOTION TO RECALL MANDATE
AND NOTICE TO ALL ASSIGNED JUDGES

Now Comes Plaintiff-Appellant Gerald Jones, Pro se move
this Court to recall the mandate and court order enter.
and place on notice of the invalid order and mandamus a
to be filed. For the following reason, so stated.

1) ON 2-9-04 Judge Philip G. Reinhard From the Northern District
Jones v. Stearns, case No. 04 C 50058 Dismissed Plaintiff
complaint sua spont. — Ash declare a strike against Plaintiff
Pursuant to 28 USC § 1915(e)(2)(B.) Failure to state a claim.

2) EVIDENCE Pursuant to the record of the court order date
2-9-04 entered by Judge Reinhard verify that truthfully

EXHIBIT ment

the Dismissal of Plaintiff complaint was NOT Factually Dismissed For Failure To State A Claim — that Judge Reinhard gave Different Reasons For Dismissing the Complaint, NOT PURSUANT TO SECTION 28 U.S.C. § 1915(e)(2)(B). But only For STEREOTYPING Plaintiff AND HIS MENTAL STATUS.

3) ON 2-18-05 the three Judge Panel, From the SEVENTH CIRCUIT, UNITED STATES COURT OF APPEALS, JONES V. STANES, et AL, Appeal NO. 04-1621 AFFIRMED the NORTHERN DISTRICT COURT ORDER DATED 2-9-04 Judgment, AND ALSO EVEN DECLARED the third strike PURSUANT TO 28 U.S.C. § 1915(g) FOR ALLEGED, deeming it FRIVOLOUS Because there was NO legal BASIS For Bringing the Appeal.

4) EVIDENCE PURSUANT TO the RECORD OF the SEVENTH CIRCUIT COURT OF APPEALS COURT ORDER DATED 2-18-05, VERIFY THAT TRUTHFULLY, the Plaintiff complaint was NOT Dismissed For Failure To State A Claim — it WAS For a differing Reasons in Doing SO.

5) thus IN LIGHT OF this EVIDENCE, Constitutes means that the strikes given TO Plaintiff, For Failure To State A claim WAS Documentarily FALSIFIED AND ARBITRARILY SANCTIONED AGAINST Plaintiff — thus ALSO means, FACTUALLY AND TRUTHFULLY Plaintiff TO NOT HAVE three strikes as

a matter of Due Process of the laws, and that Plaintiff have been deprived his rights of the First Amendment without Due Process of the laws, of access to the courts, Freedom of speech, and expression and Association without regard to creed or mental conditions.

- 6.) Because of these arbitrary sanctions of strikes Plaintiff have been seriously effected and subjected to ~~UNCONSTITUTIONAL~~ injuries being denied access to court see exhibits and it's been other injuries due to the three strikes that Plaintiff being forever barred from courts, being a poor person with no opportunities to obtain funds.

CONCLUSIONS

thus based of the facts Plaintiff have been treated differently from all others similarly situated that receive a differently Due Process review that Plaintiff was is to receive and not the one he was subjected to.

UNDER MISREPRESENTATION OF THE STATUTE 28 USC 1915(e)(2)(B) AND 1915(g) SUBJECTED PLAINTIFF TO DISCRIMINATED AGAINST BY BEING DENIED THE DUE PROCESS PROTECTIONS TO AN IMPARTIALITY LAW ABIDING BY PERSONS. BY VIRTUE OF BEING CLOTHED WITH THE OBLIGATIONAL, FIDUCIARY DUTIES TO COMPLY THE LAW AS REQUIRED BY LAW AND DUTIES, AS A JUDGE TO ALL SIMILARLY SITUATED LITIGANTS AND PERSONS.

PLAINTIFF BEING SIMILARLY SITUATED LIKE ALL OTHERS PRO SE LITIGANTS HAVE A RIGHT TO HAVE HIS COMPLAINT REVIEW FOR A DETERMINATION WHETHER HIS FACTUAL ALLEGATIONS STATED A CLAIM OF A CONSTITUTIONAL VIOLATION THAT WOULD ENTITLE HIM TO RELIEF IF THE ALLEGATION IS PROVEN, AND THE VIOLATORS WAS ACTING UNDER COLOR OF STATE LAW, AND LIKE ALL OTHERS SIMILARLY SITUATED LITIGANTS AND CITIZEN THAT FILE CIVIL COMPLAINTS, HAVE A RIGHT NOT TO HAVE HIS CASE DISMISSED ARBITRARILY, DISCRIMINATIONALLY BASE ON CREED, RELIGION, RACE OR PRO SE LITIGANT, OR MENTAL CONDITIONS,

THAT THUS THIS COURT OF APPEALS PANELS AND NORTHERN DISTRICT JUDGE ARE OBLIGATED AND HAVE A FIDUCIARY DUTY TO VACATE JUDGMENT OF THEIR ORDERS AND JUDGMENT DECLARING THREE STRIKES AGAINST THE PLAINTIFF.

Thus it's also Authority and law of the land that holds the two court orders a void judgments and that's pursuant to under. see

THUS THEREFORE PLAINDIFF REQUEST AND RESPECTFULLY REQUIRE THE COURT TO CARRY OUT THE OBLIGATIONAL AND FIDUCIARY OF THEIR DUTIES AND PURSUANT TO ARTICLE III IN GOOD BEHAVIOUR AND ARTICLE VI, 2. BOUND BY LAW, OF THE UNITED STATES CONSTITUTION TO VACATE JUDGMENT OF THE THREE STRIKES DECLARE UNDER STATUTE MENTION IN THE TWO COURT ORDERS. PLEASE

NOTICE IS GIVEN THAT A FAILURE TO DO SO AMANDAMUS WILL BE FILED TO COMPEL. WITHIN 60 DAYS OR 70 DAYS

thus therefore Plaintiff Files Decribly this motion
and Demand in good Faith.

Date: 3-7-08

Respectfully submitted

sign Gerald Jones

Gerald Jones

B.13486

PO Box 99

PONTIAC IL, 61764

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

JUDGMENT- WITHOUT ORAL ARGUMENT

Date: February 18, 2005

BEFORE: Honorable RICHARD A. POSNER, Circuit Judge
Honorable JOHN L. COFFEY, Circuit Judge
Honorable DIANE P. WOOD, Circuit Judge

No. 04-1621

GERALD JONES,
Plaintiff - Appellant

v.

JERRY L. STERNES, Warden, MARY HENRY, Lieutenant, TERRI
ANDERSON, et al.,
Defendants - Appellees

Appeal from the United States District Court for the
Northern District of Illinois, Western Division
No. 04 C 50058, Philip G. Reinhard, Judge

The judgment of the District Court is **AFFIRMED**, in
accordance with the decision of this court entered on this date.

(1060-110393)

APPENDIX A.

UNPUBLISHED ORDER
Not to be cited per Circuit Rule 53

APPENDIX A

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted February 15, 2005
Decided February 18, 2005

Before

Hon. RICHARD A. POSNER, *Circuit Judge*

Hon. JOHN L. COFFEY, *Circuit Judge*

Hon. DIANE P. WOOD, *Circuit Judge*

No. 04-1621

GERALD JONES,
Plaintiff-Appellant,

v.

JERRY STERNES, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Northern District of
Illinois, Western Division

No. 04 C 50058

Philip G. Reinhard,
Judge.

ORDER

Illinois inmate Gerald Jones filed suit under 42 U.S.C. § 1983, claiming that several prison officials, medical staff at two different facilities and the Director of the Illinois Department of Corrections violated his Eighth Amendment rights by failing to protect him from a known risk of mental and physical abuse. The district court dismissed the suit under 28 U.S.C. § 1915(e)(2)(B). Jones appeals and we affirm.

On August 25, 2004, this court granted the appellee's motion for an order of noninvolvement due to the lack of service in the district court. After an examination of the appellant's brief and the record, we have concluded that oral argument is unnecessary. Thus, the appeal is submitted on the briefs and the record. See Fed. R. App. P. 34(a)(2).

APPENDIX A.

No. 04-1621

Page 2

In his complaint, Jones alleged that prison officials tortured, threatened, and harassed him. He claimed that they "acted out of deliberate indifference, reckless disregard, and in part retaliation and hate," causing him to suffer "serious mental and physical injuries." Specifically, Jones alleged that prison officials denied him meals, involuntarily placed him in a psychiatric unit and on suicide watch, stripped him nude, assaulted him, and subjected him to an unspecified yet "substantial serious risk of impending harm." Jones also claimed that conditions on the psychiatric ward, where he was being held, led to feelings of helplessness, and that as a means of asserting control he would sometimes "cut" himself either to obtain personal items or to provoke responses from prison officials and medical staff.

The district court screened the case under 28 U.S.C. § 1915(e)(2)(B) and dismissed it, though it gave differing reasons in doing so. On the one hand, the court stated that it dismissed the complaint for failure to state a claim—a ground for dismissal that we review *de novo*. *Hoskins v. Lenear*, —F.3d—, 2005 WL 30503 at *2 (7th Cir. January 7, 2005). On the other hand, the court also invoked frivolousness grounds, finding that Jones's allegations are "plainly irrational," that his "claims of torture and abuse border on the fantastic and defy reason," and that "this lawsuit is based on delusion rather than facts." A dismissal under 28 U.S.C. § 1915(e)(2)(B)(i) based on frivolousness is reviewed for abuse of discretion. *Gladney v. Pendleton Corr. Facility*, 302 F.3d 773, 775 (7th Cir. 2002).

It is not necessary for us to determine whether Jones's suit was dismissed specifically for frivolousness or for failure to state a claim, because under the standard of review that we apply in either case, Jones's complaint was properly dismissed. His complaint lacked a basis in both law and fact, and we agree that his unsupported claims are so irrational they are unbelievable. His most developed argument is that the district court showed bias due to "prejudice and personal interest" in denying him an evidentiary hearing and dismissing the suit. But Jones points to no proof of bias or partiality (or the appearance of either) to suggest that the district judge harbored any personal animus towards him. See *In re Mann*, 229 F.3d 657, 658-59 (7th Cir. 2000). Moreover, when factual allegations like Jones's are so incredible, no evidentiary hearing is required. *Gladney*, 302 F.3d at 774.

Finally, because there was no legal basis for bringing this appeal, we deem it frivolous, constituting Jones's third "strike" under 28 U.S.C. § 1915(g). *Lee v. Clinton*, 209 F.3d 1025, 1027 (7th Cir. 2000).

AFFIRMED.

APPENDIX A.

Case 3:04-cv-50058 Document 5 Filed 02/09/2004 Page

COPY

Motion Order Form (06/97)

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	PHILIP G. REINHARD	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	04 C 50058	DATE	February 9, 2004
CASE TITLE	Gerald Jones (#B-13486) vs. Jerry Sternes, et al.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

--

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due _____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] The plaintiff's motion for leave to file in forma pauperis [#3] is granted. However, the complaint is dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim, and the case is terminated. The trust fund officer at the plaintiff's place of confinement is authorized and ordered to make deductions from the plaintiff's account and payments to the clerk of court in accordance with this order. The clerk is directed to mail a copy of this order to the trust fund officer at the Dixon Correctional Center. This dismissal counts as one of the plaintiff's three allotted dismissals under 28 U.S.C. § 1915(g).
- (11) ☒ [For further detail see order on the reverse side of the original minute order.]

<input type="checkbox"/> No notices required, advised in open court.	18000 JUDICIAL ST 9012 W 6-833 70 Date/time received in central Clerk's Office	number of notices	5
<input type="checkbox"/> No notices required.		FEB 09 2004	
<input type="checkbox"/> Notices mailed by judge's staff.		date mailed notice	
<input type="checkbox"/> Notified counsel by telephone.		mailing deputy initials	
<input checked="" type="checkbox"/> Docketing to mail notices.			
<input checked="" type="checkbox"/> Mail AO 450 form			
<input checked="" type="checkbox"/> Copy to magistrate judge.			
mjm	courtroom deputy's initials		

APPENDIX B.

Minute Order Form (0597)

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	PHILIP G. REINHARD	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	04 C 50058 (appeal no. 04-1621)	DATE	May 28, 2004
CASE TITLE	Gerald Jones (B-13486) v. Jerry L. Sternes, et al.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due _____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] The Court of Appeals has granted plaintiff leave to appeal in forma pauperis. This court accordingly waives the initial filing fee pursuant to 28 U.S.C. § 1915(b)(4). The clerk is directed to send a copy of this order to the trust fund officer at Pontiac Correctional Center and the PLRA Attorney, U.S. Court of Appeals. The Fiscal Department shall allocate funds received to the appeal (04-1621) until the \$255 appellate fees are paid and then allocate funds to the district court case until the \$150 filing fee is paid.

- (11) ☒ [For further detail see order on the reverse side of the original minute order.]

<input type="checkbox"/>	No notices required, advised in open court.		number of notices	
<input type="checkbox"/>	No notices required.		date docketed	
<input type="checkbox"/>	Notices mailed by judge's staff.		docketing deputy initials	
<input type="checkbox"/>	Notified counsel by telephone.		date mailed notice	
<input checked="" type="checkbox"/>	Docketing to mail notices.		mailing deputy initials	
<input type="checkbox"/>	Mail AO 450 form.			
<input type="checkbox"/>	Copy to judge/magistrate judge.			
CLH		courtroom deputy's initials	Date/time received in central Clerk's Office	

EXHIBIT TWO

(Reserved for use by the Court)

ORDER

Plaintiff has filed a notice of appeal and motion for leave to file on appeal in forma pauperis from the judgment entered on February 9, 2004. On May 12, 2004, the Court of Appeals granted plaintiff's petition for leave to file and proceed on appeal in forma pauperis and instructed the district court to assess an initial partial filing fee for the appeal and to notify the Court of Appeals when the partial fee has been collected.

According to the statement submitted with his *in forma pauperis* application, plaintiff owes the institution \$1,055.08 and no money has been deposited in his trust fund account from September 6, 2002, through March 1, 2004. Plaintiff therefore has neither available funds nor means to pay the initial partial filing fee required by 28 U.S.C. § 1915(b)(1). As 28 U.S.C. § 1915(b)(4) requires that a prisoner not be prohibited from appealing a civil action because of inability to pay, the initial partial filing fee is waived. The trust fund officer at the correctional facility where plaintiff is confined is authorized to collect monthly payments from plaintiff's trust fund account in an amount equal to 20% of the preceding month's income credited to the account. Monthly payments collected from plaintiff's trust fund account shall be forwarded to the clerk of court each time the amount in the account exceeds \$10 until the full \$255 filing fee is paid. All payments shall be sent to the Clerk, United States District Court, 219 S. Dearborn St., Chicago, IL 60604, attn.: Fiscal Dept., and shall clearly identify plaintiff's name and the case number assigned to this action, and the docket number assigned to the appeal by the Court of Appeals, which is 04-1621. If plaintiff is transferred to another institution, the trust fund officer at the new institution shall be informed of this order and shall be responsible for making deductions and payments in accordance with this order.

The clerk is directed to send a copy of this order the trust fund officer at Pontiac Correctional Center and the PLRA Attorney, United States Court of Appeals for the Seventh Circuit.

(Reserved for use by the Court)

ORDER

The plaintiff, a state prisoner, has brought this *pro se* civil rights action pursuant to 42 U.S.C. § 1983. The plaintiff having shown that he is unable to prepay the filing fee, his motion for leave to proceed *in forma pauperis* is granted. Because the plaintiff has a substantial negative balance in his prison trust fund account, the initial partial filing fee is waived pursuant to 28 U.S.C. § 1915(b)(4). The trust fund officer at the plaintiff's current place of incarceration is nevertheless authorized and ordered to begin collecting monthly payments from the plaintiff's trust fund account in the amount of 20% of the preceding month's income credited to the account. Monthly payments shall be forwarded to the clerk of court each time the account balance exceeds \$10 until the full \$150 filing fee is paid. See 28 U.S.C. § 1915(b)(1). Separate deductions and payments shall be made with respect to each action or appeal filed by the plaintiff. All payments shall be sent to the Clerk, U.S. District Court, 219 S. Dearborn St., Chicago, Illinois 60604, attn: Fiscal Dept., and shall clearly identify the plaintiff's name and this case number.

Under 28 U.S.C. § 1915(e)(2), the court is required to dismiss a suit brought *in forma pauperis* at any time if the court determines that it is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. It is well established that *pro se* complaints are to be liberally construed. *Haines v. Kerner*, 404 U.S. 519, 520 (1972), *reh'g denied*, 405 U.S. 948 (1972); see also *McCormick v. City of Chicago*, 230 F.3d 319, 325 (7th Cir. 2000). However, "a district court judge should deny leave to proceed *in forma pauperis* if an action is frivolous or malicious." *Wartman v. Branch 7, Civil Division, County Court, Milwaukee County, State of Wisconsin*, 510 F.2d 130, 134 (7th Cir. 1975), principle reaffirmed in *Bryan v. Johnson*, 821 F.2d 455, 458 (7th Cir. 1987). A frivolous complaint is one in which "the petitioner can make no rational argument in law or facts to support his or her claim for relief." *Williams v. Faulkner*, 837 F.2d 304, 306 (7th Cir. 1988), *aff'd sub nom Neitzke v. Williams*, 490 U.S. 319 (1989). Here, even accepting the plaintiff's factual allegations as true, the court finds that the complaint fails to state a claim as a matter of law because the plaintiff's allegations are plainly irrational.

Although the rambling, twenty-five page complaint is barely comprehensible, the plaintiff seems to believe that officials at the Tamms "Supermax" and Dixon Correctional Center have embarked on a campaign of harassment and mistreatment against him. The plaintiff alleges that correctional officials have "tortured" him, stripped him nude and exposed him to the elements, placed him in a psychiatric unit and on suicide watch against his will, retaliated against him for his grievances, and subjected him to an unspecified but repeatedly alluded to "substantial risk of serious impending harm."

The court need not accept as true factual allegations that "rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them." *Denton v. Hernandez*, 504 U.S. 25, 32 (1992). Here, the plaintiff's claims of torture and abuse border on the fantastic and defy reason. The manner in which the complaint is written, the fact that the plaintiff is confined in a psychiatric unit at a medical facility, his admission that he chronically "cuts" himself, and his apparent contacts with multiple mental health professionals (several are named as defendants) all lead to the conclusion that this lawsuit is based on delusion rather than facts. Although the court has empathy for the plaintiff, who appears to be genuinely troubled, the court can only conclude that his complaints of abuse and his paranoia about looming harm are unreasoned. The sort of help the plaintiff needs is not the type of relief that the court can provide. Presumably, the plaintiff is receiving that help from the psych staff where he is confined.

For the foregoing reasons, this suit is dismissed for failure to state a claim upon which relief may be granted. The plaintiff is warned that if a prisoner has had a total of three federal cases or appeals dismissed as frivolous, malicious, or failing to state a claim, he may not file suit in federal court without prepaying the filing fee unless he is in imminent danger of serious physical injury. 28 U.S.C. § 1915(g).

If the plaintiff wishes to appeal this dismissal, he may file a notice of appeal with this court within thirty days of the entry of judgment. Fed. R. App. P. 4(a)(4). If the plaintiff does choose to appeal, he will be liable for the \$255 appellate filing fee irrespective of the outcome of the appeal. *Evans v. Illinois Dept. of Corrections*, 150 F.3d 810, 812 (7th Cir. 1998). Furthermore, if the appeal is found to be non-meritorious, the plaintiff may also accumulate another "strike."

APPENDIX B.

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

April 15, 2005

Before

Hon. RICHARD A. POSNER, *Circuit Judge*

Hon. JOHN L. COFFEY, *Circuit Judge*

Hon. DIANE P. WOOD, *Circuit Judge*

No. 04-1621

GERALD JONES,
Plaintiff-Appellant,

v.

JERRY STERNES, et. al.,
Defendants-Appellees.

Appeal from the United States
District Court for the Northern District of
Illinois, Western Division.

No. 04 C 50058

Philip G. Reinhard,
Judge.

ORDER

On March 9, 2005, the petitioner-appellant Gerald Jones filed a petition for petition for rehearing en banc in response to our order affirming the district court's decision to dismiss his civil rights action against the Illinois Department of Corrections. All of the judges on the original panel have voted to deny the petition, and none of the active judges has requested a vote on the petition for rehearing. The petition is DENIED.

APPENDIX C.

PURSUANT TO: EX PARTE VIRGINIA 100 U.S. 339, 10 OTT 339 (1879) WL 16561 (U.S. VA, 25 L. Ed. 676, the Following is an Forbidden, AND illegal Act, Because the Judge WAS NOT AUTHORIZED BY statute as:

A INMATE GERARD JONES, WAS TRANSFER FROM TAMMS TO DIXON PSYCHIATRIC UNIT AND BEGAN COMPLAINING OF DIXON CONDITIONS AND STAFF MISCONDUCT FILING GRIEVANCES. DIXON OFFICIALS TOLD JONES KEEP WRITING GRIEVANCES AND COMPLAINING THEY WOULD SEND HIM BACK TO TAMMS SUPERMAX, DUE TO IT WAS A SUBSTANTIAL RISK OF IMPENDING HARM WHICH WAS THE VERY REASON HE WAS TRANSFER OUT TAMMS TO PREVENT THE RISK AND IMPENDING HARM FROM OCCURRING, IN CONFLICT.

DIXON OFFICIAL SENT JONES BACK TO TAMMS WITH NO PROTECTION FROM THE IMPENDING HARM, THAT HARM OCCURRED MENTALLY AND PHYSICALLY THAT WITHIN TEN DAYS TAMMS OFFICIAL SENT JONES UNDER AN EMERGENCY TRANSFER BACK TO DIXON. DIXON OFFICIALS THEN SENT HIM TO PONTIAC C.C. INMATE JONES FILED A COMPLAINT § 1983, AGAINST DIXON AUTHORITIES FOR RETALIATION AND BEING DELIBERATE INDIFFERENCE TO HIS HEALTH AND SAFETY.

IN THE NORTHERN DISTRICT OF ILLINOIS JUDGE PHILIP G. REINHARD SUA SPONTE DISMISSED THE COMPLAINT FOR FAILURE TO STATE A CLAIM, ALLEGING REASONS "JONES

COMPLAIN OF BEING SENT BACK TO TAMMS BUT HE IS NOT IN TAMMS, HE IS IN PONTIAC C.C.", REFUSING TO EXCEPT THE FACTUAL ALLEGATIONS AS TRUE, AND DECLARE A STRIKE PURSUANT TO THE PRISON LITIGATION REFORM ACT (PLRA) § 1915(g)

JONES FILE A SECOND COMPLAINT ALLEGING THE SAME CLAIMS, ASSIGNED TO THE SAME JUDGE, REINHARD DISMISSED HIS SECOND COMPLAINT FOR FAILURE TO STATE A CLAIM, ALLEGING REASONS "PLAINTIFF DON'T NEED THE TYPE OF RELIEF THE COURT CAN PROVIDE". AND DECLARED ANOTHER STRIKE UNDER § 1915 (g)

JONES'S APPEAL JUDGE REINHARD DENIED THE APPEAL ALLEGING THE APPEAL IS IN BAD FAITH, THEREFORE, DECLARED ANOTHER STRIKE. JONES APPEAL TO THE SEVENTH CIRCUIT. THE SEVENTH CIR. AGREED THAT EVEN THOUGH [REDACTED] THE DISTRICT COURT DISMISSED THE COMPLAINT FOR FAILURE TO STATE A CLAIM, IT GAVE DIFFERING REASONS IN DOING SO, BUT IT'S NO NEED TO DETERMINE WHETHER IT WAS DISMISSED FOR FAILURE TO STATE A CLAIM OR FRIVOLOUS, JONES COMPLAINT WAS PROPERLY DISMISSED. THE U.S. SUPREME COURT DENIED JONES PETITION FOR WRIT OF CERTIORARI.

NOW THAT JONES HAVE (3) THREE STRIKES HE HAVE BEEN ABRIDGED PROHIBITED BARED FROM THE FEDERAL COURTS BECAUSE HE IS A POOR CITIZEN INMATE

Because the seventh CIR COURT OF APPEALS AGREED THAT THE COURT DID NOT DISMISS FOR FAILURE TO STATE A CLAIM, IT WAS ERROR NOT TO REVERSE AND ERROR TO ALLOW HIM TO BE GIVING STRIKES FOR FAILURE TO STATE A CLAIM, WHEN IT REALLY WAS NOT AND BASED ON THE JUDGES SUA SPONTE PERSONAL INTEREST ALLEGING JONES DON'T NEED THE TYPE OF RELIEF THE COURT CAN PROVIDE, THE (P.L.R.A) DID NOT AUTHORIZE THE TO OPERATE THE STATUTE IN THIS MANNER OR GIVE POOR PRO SE COMPLAINTS STRIKES ARBITRARILY SUA SPONTE.

Because the statute HAVE NO AND GIVE NO DUE PROCESS PROTECTION TO PREVENT JUDGES USING THE STATUTE ARBITRARILY IN A DISCRIMINATING MANNER OR BIAS DECLARING STRIKES NOT AUTHORIZED BY THE STATUTE VIOLATES THE DUE PROCESS CLAUSE DEPRIVING JONES AND INMATES FUNDAMENTAL FIRST AMEND. RIGHT OF ACCESS TO THE COURT WITHOUT DUE PROCESS OF THE LAW, FELCE V. FIELDER 974 F.2d 1484 (7th Cir 1992) (HOLDING A STATUTE THAT GIVES NO DUE PROCESS PROTECTION FROM UNAUTHORIZED OR THE ASSURING FAIRLY RIGHTS ARE NOT BEING DEPRIVED CALLS FOR THE STATUTE UNCONSTITUTIONAL) ALSO SEE ZINERMAN V. BURCH 494 U.S. 113, 110 S.Ct. 975 (1990) (REQUIRING DUE PROCESS PROTECTIONS).

THE SUPREME COURT OF THE U.S HELD THAT COURT FEES MUST BE WAIVED IF THEY PREVENT A POOR LITIGANT FROM

VINDICATING BASIC FUNDAMENTAL RIGHTS, see *MLB. V. S.C.J.* 519 U.S. 102, 117, 117 S.Ct. 555 560-64 569-70 136 L.Ed.2d 473.

IN ORDER FOR JONES TO RAISE HIS CONSTITUTIONAL CHALLENGE TO SECTION 1915(g) HE MUST SHOW HE HAS STANDING, THAT HE HAVE ACTUALLY BEEN INJURED, DENIED, DEPRIVED ACCESS TO THE COURTS WITHOUT DUE PROCESS OF THE LAW see *Lewis V. Casey* 518 U.S. 343, 116 S.Ct. 2174, 2179 135 L.Ed.2d 606 (1996).

THE JUDGES CAN DECLARE THREE STRIKES AGAINST POOR INMATES ARBITRARILY, BIAS OR WITHIN CONSPIRACY TO PROTECT PRISON OFFICIALS FROM PAYING DAMAGES WHERE LIABILITY IS FOUND OR NOTICE, OR OUT OF DISCRIMINATION WITH NO REMEDY TO FAIRLY ~~HAVE~~ THE STRIKES VACATED, REMOVED IS CLEARLY UNCONSTITUTIONAL DEPRIVING JONES AND POOR PERSONS RIGHTS WITHOUT DUE PROCESS OF THE STATUTE VIOLATES THE EQUAL PROTECTION OF THE LAW DECLARING STRIKES UNAUTHORIZED BY THE STATUTE

THE FACT JONES GAVE THE COURTS CONTINUALLY OPPORTUNITY TO CORRECT THEM SELF SUBSTANTIATE INTENTIONAL, FRAUD, DISCRIMINATION, MISREPRESENTATION, LEGAL MALPRACTICE, BIAS AND DEPRIVATION OF EQUAL PROTECTION OF THE LAWS FROM THE FACT THE JUDGES ~~■~~ INTENTIONALLY REFUSE AND FAIL TO CORRECT THESE ERROR GETTING ALTRA VIRES.

WHEN the JUDGE ACTS ALTRA VIRES HE LACKS
 JURISDICTION see FLORIDA DEPT OF STATE V. TREASURE
 SALVORS 458 U.S. 670 102 S.Ct. 3304 73 L.Ed.2d 1057
 (1982) LARSON V. DOMESTIC & FOREIGN COMMERCE CORP.
 337 U.S. 682, 69 S.Ct. 1457, 93, L.Ed.2d 1628 (1949)
 a JUDGE'S PERSONAL INTEREST IS ALTRA VIRES the
 test FOR IMMUNITY IS AN OBJECTIVE ONE, BUT
 MISUSE OF OFFICIAL AUTHORITY FOR PRIVATE ENDS IS
 A RECURRENT FEATURE OF CASES IN WHICH A
 DEPRIVATION OF LIFE LIBERTY OR PROPERTY WITHOUT DUE
 PROCESS OF LAW IS FOUND, see ANDERSON V. ROMERO
 72 F.3d 518 (7th Cir 1995) (citing SREWS V. U.S. 325
 U.S. 91, 93, 111, 65, S.Ct. 1031, 1032 1040 89 L.Ed.2d 1495 (1945).
 GIBSON V. CITY OF CHICAGO 910 F.2d 1510 1518 (7th Cir 1990)
 see EX PARTE VIRGINIA 100 U.S. 339, 10 OTT. 339. (1879)
 WL 16561 (U.S. VA.) 25 L.Ed. 676.

THE (P.L.R.A.) IS A MINISTERIAL DUTY TO BE UTILIZED.
 ALTHOUGH THE JUDGE DERIVED HIS AUTHORITY FROM THE
 STATE HE WAS BOUND IN THE DISCHARGE OF THAT DUTY
 TO OBEY THE FEDERAL CONSTITUTION AND LAWS PASSED
 IN PURSUANCE THEREOF, THE STATUTE GIVE THEM NO
 AUTHORITY TO DISMISS JONES COMPLAINT SUA SPONTE
 ALTRA VIRES BASED ON HIS PERSONAL INTEREST THAT
 ALLEGING JONES DON'T NEED THE RELIEF THE COURT CAN
 PROVIDE HOLD THESE JUDGES LIABLE FOR DEPRIVING

Him Access to the courts, relief, and Equal Protection of the laws, Discriminating intentionally see ABOVE CASE (EX PARTE VIRGINIA)

Whether a Government official is entitled to Absolute Immunity From a suit For Damages Depends on "the Nature of the Function Performed, NOT the Identity of the actor who Performed it," see WALRATH V. U.S. OF AMERICA 35 F.3d 277 (7th Cir 1994) and quoting cases).

Jones seeks INJUNCTION AND Declaratory Relief Against the COURT Proceedings on the Grounds that the COURT APPLIED AND ENFORCING the strikes in a UNAUTHORIZED ForeBIDDEN AND UNCONSTITUTIONAL MANNER that CONTINUALLY DePRIVING Him His First AMEND. RIGHTS AND Access To the COURT causing Him IRREPARABLE HARM, But Because He is Truly indigent Poor inmate UNABLE To PAY Filing Fees the COURT HAVE CONTINUAL DENIED AND DePRIVED His APPEALS For Failure To Prosecute PAY the Fees To VINDICATE Request To HAVE this ERROR VACATE or Petition to the government For a REDRESS of GRIEVANCES,

the SUPREME COURT STATED, "the Power of the state To control the Practice of LAW CANNOT Be exercised So AS To ABROGATE Federally Protected RIGHTS

see Johnson V. Avery 393 U.S. 483 89 S.Ct. 747, 21 L.Ed.2d 718 (1969) Mitchell V. Foster 407 U.S. 225 92 S.Ct. 2151, 32 L.Ed.2d 705 (1972).

Because the COURT Operating the (P.L.R.A.) § 1915(g) without the Due Process Require and in a manner Arbitrarily Declaring Strikes Not Authorize By the Statute, Jones Rights To Peaceably to Assemble and Petition to the Government For a Redress of Grievances, Have Been Abridge and Prohibited Restricted. Proven From the Fact Being Denied Access To the COURT To Redress this grievance To the Government. ON these GROUNDS the Statute is UNCONSTITUTIONAL ON IT'S FACE. ANY ASSISTANCE TO HELP JONES OBTAIN ACCESS To the COURT, seeks RELIEF OF Justice.

Jones Brings this issue To the Attention of the Public of the ABUSE, DISCRIMINATION AND BIAS Being inflicted upon Him and seeks Help. ■

Date: 1-29-07

sign Gerald Jones

Gerald Jones

B.13486

P.O. Box 99

PONTIAC Ill. 61764

Appeal Documents

3:02-cv-01161-JPG-PMF Jones v. Chandra, et al **CASE CLOSED on 04/30/2007**

APPEAL, CASREF, CJRA_A, FILE_CREATED

U.S. District Court

Southern District of Illinois

Notice of Electronic Filing

The following transaction was entered on 7/31/2007 at 9:32 AM CDT and filed on 7/30/2007

Case Name: Jones v. Chandra, et al

Case Number: 3:02-cv-1161

Filer:

WARNING: CASE CLOSED on 04/30/2007

Document Number: 194

Docket Text:

ORDER of USCA as to [182] Notice of Appeal filed by Gerald Jones; motion for leave to proceed on appeal in forma pauperis is denied. Appellant shall pay required docketing fee within 14 days or appeal will be dismissed. (dka,)

3:02-cv-1161 Notice has been electronically mailed to:

Carrie L. Kinsella clacey@atg.state.il.us, bmyers@atg.state.il.us, jginter@atg.state.il.us,
lweitekamp@atg.state.il.us

Theresa M. Powell tpowell@hrva.com, ejarman@hrva.com, sprecf@hrva.com

April G. Troemper atroemper@hrva.com, lwallbaum@hrva.com, sprecf@hrva.com

3:02-cv-1161 Notice has been delivered by other means to:

Gerald Jones
#B-13486
Pontiac Corr Center
PO Box 99
Pontiac, IL 61764

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

EXHIBIT TAXI

Deay

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

July 26, 2007

Before

Hon. FRANK H. EASTERBROOK, *Chief Judge*

Hon. JOEL M. FLAUM, *Circuit Judge*

GERALD JONES,		] Appeal from the United
Plaintiff-Appellant,		] States District Court for
		] the Southern District of
No. 07-2173	v.	] Illinois.
]
RAKESH CHANDRA, JILL STEVENS,		] No. 02 C 1161
CHERYL COUCH, et al.,]
Defendants-Appellees.		] J. Phil Gilbert,
		] Judge.

The following are before the court:

1. **MOTION AND IN SUPPORT OF INFORMA PAUPERIS TO PROCEED AS A POOR PERSON UNDER THE IMMINENT DANGER EXCEPTION CLAUSE**, filed on June 1, 2007.
2. **MOTION TO BAR PLAINTIFF FROM PROCEEDING ON APPEAL IN FORMA PAUPERIS**, filed on June 11, 2007, by counsel for the appellants.
3. **APPELLANT'S RESPONSE TO DEFENDANTS-APPELLEES MOTION TO BAR PLAINTIFF FROM PROCEEDING ON APPEAL IN FORMA PAUPERIS**, filed on June 18, 2007, by counsel.

On June 19, 2007, the district court vacated its order granting appellant's motion to proceed in forma pauperis on appeal and denied his motion. Accordingly,

IT IS ORDERED that this court **VACATES** its June 12, 2007, order denying as unnecessary appellant's motion to proceed in forma pauperis on appeal.

EX. TAXI

RECEIVED

JUL 30 2007 Page Two

Appeal no. 07-2173

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Upon consideration of the request for leave to proceed ~~as a~~ ^{pro se} pauper on appeal, the appellant's motion filed under Federal Rule of Appellate Procedure 24, the district court's order pursuant to 28 U.S.C. §1915(a)(3) certifying that the appeal was filed in bad faith, and the record on appeal,

IT IS ORDERED that the motion for leave to proceed on appeal in forma pauperis is **DENIED**. See *Lee v. Clinton*, 209 F.3d 1025 (7th Cir. 2000). Appellant shall pay the required docketing fee within 14 days, or else this appeal will be dismissed for failure to prosecute pursuant to Circuit Rule 3(b). See *Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997).

EX. TAXI

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

March 19, 2008

By the Court:

GERALD JONES,		] Appeal from the United
Plaintiff-Appellant,		] States District Court for
		] the Northern District of
No. 04-1621	v.	] Illinois, Western Division.
]
JERRY L. STERNES, Warden, MARY		] No. 04 C 50058
HENRY, Lieutenant, TERRI ANDERSON,]
et al.,		] Philip G. Reinhard,
Defendants-Appellees.		] Judge.

Upon consideration of the **MOTION TO RECALL MANDATE AND NOTICE TO ALL ASSIGNED JUDGES**, filed on March 14, 2008, by the pro se appellant,

IT IS ORDERED that the motion is **DENIED**.

EXHIBIT T.C.

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Philip G. Reinhard	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	04 C 50058	DATE	3/18/2008
CASE TITLE	Jones vs. Sternes		

DOCKET ENTRY TEXT:

To the extent the motion to recall mandate filed in this court seeks a recall of the mandate issued by the Court of Appeals, the motion is dismissed as this court lacks jurisdiction to consider it. The motion is transferred to the United States Court of Appeals for the Seventh Circuit.

Philip G. Reinhard

Notices mailed by Judicial staff.

Courtroom Deputy Initials:	LC
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EXHIBIT T.C.

THE
ROGER
BALEWYN
FOUNDATION
OF ACLU,
INC.

Suite 2000
180 North Michigan Avenue
Chicago, Illinois 60601-1287
(312) 201-9740
Fax (312) 259-80
www.adu-i



July 5, 2006

Mr. Gerald Jones
N-106
B. 13486
PO Box 99
Pontiac, IL 61764

Dear Mr. Jones:

Thank you for contacting the American Civil Liberties Union of Illinois. We have reviewed your situation carefully and we regret to inform you that we will not be able to accept your case.

The ACLU office is a legal center that involves itself with broad impact, constitutional litigation. These are issues where the government has abused constitutional rights. Unfortunately, we regret that most cases of individual unfairness or injustice cannot be accepted.

We receive more than 20,000 requests annually for legal assistance. Our resources are limited and we can only act upon a small percentage of the requests. The fact that we cannot help you, however, does not mean that your case has no merit. It may be that we are handling a similar case, that the case does not involve a novel issue pertaining to civil liberties, or that we do not have the resources to handle the case.

You should know that there is a limited time in which legal action may be pursued, sometimes referred to as a statute of limitations. You might be wise to ask an attorney for advice about preserving any rights you may have.

Please accept our regrets that we cannot help you with your situation.

Sincerely,

Intake Department

2pg. EXHIBIT ONE

UPTOWN PEOPLE'S LAW CENTER
4413 NORTH SHERIDAN • CHICAGO, IL 60640
773 • 769 • 1411 FAX 773 • 769 • 2224

February 13, 2007

Gerald Jones
B13486
Pontiac Correctional Center
700 West Lincoln Street
P.O. Box 99
Pontiac, IL 61764

Re: Federal Court Claims

Dear Mr. Jones:

We received your lengthy letter (along with the many enclosures), asking for our help in challenging the dismissal of your earlier case, Jones v. Sternes, 04 C 50058, which challenged the mental health care you were provided at Tamms and Dixon, and the retaliation to which you were subjected when you filed grievances at Dixon. As requested, we have made a copy of your documents for our file, and now return your originals.

We completely agree that the dismissal of your pro se complaint was highly improper. The federal courts are supposed to require only "notice pleading", and your complaint clearly stated a claim for medical neglect. Further, the core allegations (being stripped out, placed in four point restraints, being placed at Tamms despite a high risk of self-harm, etc), are hardly "fantastic" or "delusional"; rather, they describe events which occur everyday in the Dixon and Tamms' mental health units.

Unfortunately, there is nothing to be done at this late date. Since you have already appealed Judge Reinhard's ruling, and lost in the Seventh Circuit, and then your appeal was rejected by the U.S. Supreme Court, those claims are now "res judicata"—that means, that they have been decided against you, and can not be raised again. If you had been represented by competent counsel on appeal, you should have won. Unfortunately, it is now too late.

It is precisely because of this type of treatment that we are seeking to challenge the entire mental health system. I believe that your best hope of obtaining some sort of relief is through our collective efforts. As we have said for years, if men are willing to stand up and resist, as you have done, then something may change. Without that support from the inside, however, there is very little we can accomplish on the outside. Thank you for your continued willingness to stand up for your rights. I am embarrassed that you were treated this way by our court system.

Sincerely,


Alan Mills

2pg. EXHIBIT ONE.

AM:es

enclosures